

REMARKS

Applicants thank the Examiner for holding an interview on August 19, 2009 to review proposed claim amendments. The following remarks summarize the discussion held at the interview.

In a Office Action mailed July 23, 2009, the Examiner objected to some wording in the specification, rejected claims 31 and 38 under §112 and rejected a number of claims under §102 or §103, primarily over U.S. Patent No. 5,772,274 to Tokarz. The Examiner also indicated that claims 29, 32, 33 and 39 would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

Specification

The specification has been amended to remove the word “soft” from the first paragraph, thereby clarifying that the invention is applicable to convertible tops, generally. The reference to a hard top later in the specification refers to an example top, but the specification goes on to explain that the invention may also be used with soft top designs. It is believed that this addresses the specification objections.

Rejections under 35 U.S.C. §112

Claim 31 has been amended to depend from claim 30. Claim 38 has been amended to remove the words “or during or after”, thereby clarifying the claim. New claims 47 and 48 have been added. These claims each correspond to claim 38, but claim 47 includes the language “during” and claim 48 includes the language “after”. It is believed that these changes address the rejections under §112.

Allowable claims

Applicants thank the Examiner for the indication that claims 29, 32, 33 and 39 are allowable if rewritten in independent form. These claims have been written in independent form

as claims 49-52. It is submitted that each of these claims corresponds to the allowable claims, and include all limitations of the base claim and any intervening claims.

Rejections under 35 U.S.C. §102 and §103

Independent claim 24 stands rejected under §102 as anticipated by the Tokarz patent. Some embodiments of the present invention are directed to a system wherein folding top elements may be pivoted relative to each other by an electric motor that introduces the drive torque directly into a pivot joint connecting these elements. This invention provides numerous advantages, such as allowing a flexible movement path of the top during retraction. The Tokarz patent shows a system including two electric motors, with one electric motor driving the roof's main bearing and the other electric motor driving the five bow (91). In other words, one electric motor drives a roof element that is pivoted to the body at the main bearing while the other electric motor drives a bow that is also pivoted to the body. The remainder of the roof elements in Tokarz are controlled in a traditional manner using a multi-link system all driven by the electric motor that drives the main bearing. This does not allow independent control of pivot joints, as with the present invention. Such an approach is also not taught by the other cited references.

Independent claim 24 has been amended to focus on embodiments of the present invention wherein the electric motor introduces a drive torque directly to a pivot joint that connects two roof elements that pivot relative to one another. Based on the discussion at the interview, claim 24 has been amended to make it clear that the roof elements referred to are roof elements that form part of the roof itself. That is, the roof elements extend over the passenger compartment when the roof is closed. Top elements define a broader category, which includes roof elements as well as other non-roof elements. Amended claim 24 refers to top elements and roof elements, with the roof elements now being defined as extending over the passenger compartment. This clarifies that claim 24 is not directed to a system such as in the Tokarz patent, wherein one of the pivoting elements is a bow that is not a roof element that extends over the passenger compartment when the roof is closed. Applicants respectfully submit that this

places claim 24 in condition for allowance, along with all claims that depend therefrom. It is noted that claim 32 has been amended herein to correct a typographical error. It is also noted that withdrawn claim 40 should now be in condition for allowance since it depends from revised claim 24.

If further clarification of the claims is needed, the Examiner is invited to contact Applicants' below signed representative to discuss such changes.

Dated: August 26, 2009

Respectfully submitted,

By 

Douglas E. Wathen

Registration No.: 41,369

GIFFORD, KRASS, SPRINKLE, ANDERSON
& CITKOWSKI, P.C.

2701 Troy Center Drive, Suite 330

Post Office Box 7021

Troy, Michigan 48007-7021

(734) 913-9300

(734) 913-6007 (Fax)

Attorney for Applicant